

APPROVED

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**MINUTES OF THE NEW CASTLE ZONING BOARD OF ADJUSTMENT
Tuesday, November 29th, 2022 – 7:00 p.m. (Town Hall)**

Members Present: Todd Baker, Chair; John Fitzpatrick; Rebecca Goldberg; Ben Lannon; Margaret Sofio; Matt Taylor.

Members Absent: Mark Gardner; Alyson Tanguay.

Others Present: Frank Alexandropoulos, Alex Builders & Sons, Inc.; Ken Aspen; Raymond Bisson, Stonewall Surveying; Jim Cerny; Christopher Drescher, Cronin Bisson & Zalinsky, P.C.; Kevin Kelleher; Curt and Elizabeth Springer; Alex and Nancy Vailas.

Chair Baker called the meeting to order at 7:00 p.m.

1. Case 2022-06. Robert Moores, owner of 224 Wentworth Road, Map 5, Lot 12, has requested a variance from New Castle Zoning Ordinance Section 4.2.1 Article 3 to allow construction of a 24 foot by 24 foot garage. Lot coverage of 2,835 square feet is proposed, where 2,259 square feet of coverage is existing and 2,014 square feet is allowed. A variance from the setback requirement is also requested, as the proposed garage would be five feet from the side and rear setbacks where 15 feet is required.

Ms. Goldberg noted that she has worked with Alex Builders & Sons, Inc., and while she can remain impartial in hearing the case, she decided to recuse herself. Voting members for this case are Mr. Lannon, Mr. Taylor, Mr. Fitzpatrick, Ms. Sofio and Chair Baker.

Builder Frank Alexandropoulos of Alex Builders & Sons, Inc. presented on behalf of Robert Moores, who is away traveling. The Moores believe the request for the garage is reasonable, as there are other garages with single family dwellings in the neighborhood, and it is a small house. The Applicants have three grown children who will be visiting frequently, and the Moores plan on retiring in the home. Mr. Moores has met with the Building Inspector on site and also hired a landscape architect to provide a topographical map that shows how stormwater will be managed. The existing rock wall on the side of the property will be rebuilt to allow for proper drainage. Mr. Alexandropoulos added that there will be proper mechanisms to contain the water on site, such as rain barrels and gutters, which will be tied into underground drainage.

Chair Baker asked if there are other locations for the garage that have been considered. Mr. Alexandropoulos responded that they selected the proposed location because the positioning fits the lot. It is the best location because of the flat topography there.

Chair Baker asked if Mr. Alexandropoulos could address how the application met each of the five criteria for zoning relief. Mr. Alexandropoulos responded that he was not familiar with these criteria, and preferred to table the application so that the Moores could address the criteria.

Ken Aspen, 252 Wentworth Road, stated that he is an abutter opposed to the proposal, and wanted to discuss his concerns. Chair Baker informed Mr. Aspen that since the application is

going to be tabled and the Applicant has not presented his case, the Board will hear all sides at the next meeting.

Ms. Sofio motioned to table the application of Robert Moores, 224 Wentworth Road, Map 5, Lot 12, to the next scheduled ZBA meeting. Mr. Fitzpatrick seconded. Motion carried unanimously by a vote of five to zero.

2. Case 2022-07. William A. Lomas, owner of 54 Portsmouth Ave., Map 11, Lot 37, has requested a variance for relief from New Castle Zoning Ordinance Article 4.2 Table 1 to install two HVAC condensers and a fireplace within the required 15 foot setback.

Ray Bisson of Stonewall Surveying presented on behalf of William Lomas. Mr. Lomas went before the Zoning Board, Planning Board and Conservation Commission in October and received approval from all boards for the proposed site plan. The Applicant missed the deadline to have two minor additions added to the site plan due to the timing of the notification letters to abutters.

Mr. Lomas seeks to add a fireplace and two HVAC condensers along the right side of the existing house. There is no other wall on the existing house for these utilities to go based upon the existing and proposed construction. The existing house is 8.2 feet from the property line. The Applicant is requesting to have a chimney for the indoor fireplace be 6.1 feet from the property line, and two condensers 5.9 feet from the property line, where 15 feet is required. Mr. Bisson noted that the closest condenser would be 25.5 feet from the abutting house. He added that the Planning Board has seen the application with the condensers and fireplace and approved the application, as long as all other necessary approvals were received.

Mr. Bisson explained that the purpose of the condenser is to provide more modern utilities to the house. Condensers are more efficient and environmentally friendly, according to Mr. Bisson.

Mr. Bisson went through the five criteria for zoning relief.

1. The variance will not be contrary to the public interest:

Granting the variance will not be contrary to public interest since there would be no impact to the public. The proposal will not alter the essential character of the neighborhood, nor would it threaten the health, safety or welfare of the general public. The condensers will barely be visible from the main road with the proposed vegetation in place, and the fireplace would fit with the surrounding New England style homes.

2. The spirit of the ordinance is observed:

Granting the requested variance would be consistent with the spirit of the ordinance, as it allows for improvements and upgrades of existing nonconforming lots. Many homes in New Castle would not be able to be improved to modern standards without variances. For example, HVAC

condensers are much more efficient than 1950s baseboards. Consistency would be observed since there have been many improvements done on other nonconforming lots in the nearby area.

3. The values of surrounding properties are not diminished:

The property values of surrounding homes will not be diminished by these proposed improvements. Property improvements tend to increase the property value, which will, in turn, increase abutting property values.

4. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:

There is no fair and substantial relationship between the general public purposes of the ordinance and the specific application to this property. The reduction of the side setback for the utilities has no relationship between the general public and the Applicant's property request. The only parcel that would be affected by the proposed condensers and fireplace is the Cernys, who have provided their support for the application. Furthermore, the proposed use is reasonable, as it will update an outdated heating system and window installed air conditioners with an efficient home heating and cooling system. These condenser units must be outside and separated from the structure. Based upon the existing structure utilities and proposed improvements, there is no other efficient location to place these units.

5. Substantial justice is done:

The property cannot be improved without needing at least one variance. Based upon the style of the house, the location to property lines, and previously approved improvements, there is no other convenient location for the HVAC condensers, and no better structural location for the fireplace. Substantial justice will be done because it would allow for the modernization of existing utilities.

Mr. Bisson noted that the existing propane tank is on the left hand side of the house. The fireplace will be inside, but the chimney will create a bump-out from the house. Ms. Goldberg asked if other alternative sites had been considered. Mr. Bisson responded that the only other location where a variance would not be needed would be in the front of the house. Having the chimney and condensers in front of the house would change the streetscape negatively, so this would not be a viable option.

Chair Baker opened the public hearing at 7:19 p.m. Jim Cerny, 44 Portsmouth Avenue, is a direct abutter. He is in complete support of the application. Mr. Cerny noted that he has a condenser himself and finds it to be very unintrusive. Hearing no further comments from the public, Chair Baker closed the public hearing at 7:20 p.m. and opened discussion back up to the Board.

Mr. Lannon acknowledged the difficult positioning of the structure on the lot, which does not leave a lot of space to put the condensers. He felt that the request is a minimal addition to what the Board previously discussed and approved regarding setbacks. Mr. Lannon believed that the request seemed appropriate for the needs of the house, and appreciated that the immediate

neighbor is in favor. Mr. Taylor agreed with Mr. Lannon and felt that the request is fairly minimal. He also acknowledged that Mr. Cerny had no issues with the proposal. Mr. Fitzpatrick concurred. Ms. Sofio stated that she has been reading about condensers and it does seem like it is an improvement from an environmental standpoint. She felt that it is a de minimis request, particularly with the abutter's approval. Ms. Goldberg agreed and felt that the Applicant has met all five criteria for relief. She also appreciated the abutter's comments.

Chair Baker went through the five criteria for zoning relief and found that all criteria have been met.

Mr. Lannon motioned to approve the application of William A. Lomas, 54 Portsmouth Avenue, Map 11, Lot 37, as submitted, having met the five criteria for zoning relief for a variance from Article 4.2 Table 1. Mr. Fitzpatrick seconded. Motion carried unanimously by a vote of six to zero.

Curt Springer, 98 Cranfield Street, suggested that the Board have a specific finding of fact in their vote.

3. Case 2022-08. Curt and Elizabeth Springer, owners of 98 Cranfield Street, Map 17, Lot 19, have appealed an administrative decision from the Historic District Commission in relation to Article 9 Section 9.3.8 (1) of the Zoning Ordinance.

Attorney Christopher Drescher was present along with applicants Curt and Elizabeth Springer. Chair Baker stated that as noted in the Springers' appeal, there has been a recent change in the law that requires a finding of fact to be clearly stated in the Notice of Decision. He found it to be most appropriate at this point to get the finding of fact clearly stated by the Historic District Commission (HDC). Chair Baker stated that the case will be remanded to the HDC for the Commission to address this appropriately and issue a new Notice of Decision.

Mr. Fitzpatrick motioned to remand the application of Curt and Elizabeth Springer, 98 Cranfield Street, Map 17, Lot 19, to the Historic District Commission to issue a new Notice of Decision and make new findings of fact pursuant to the new law, and not to re-hear the case. Ms. Goldberg seconded. Motion carried unanimously by a vote of five to zero, with Ms. Sofio having recused herself.

4. Approve Minutes.

Mr. Lannon moved to accept the October 2022 minutes as written. Mr. Fitzpatrick seconded. The motion carried unanimously.

5. Set Date of Next Meeting.

Chair Baker announced that the next Zoning Board of Adjustment meeting will be held on Tuesday, December 20, 2022 at 7:00 p.m. at the Town Hall.

6. Adjournment.

There being no further business, Ms. Sofio moved to adjourn the public meeting. Ms. Goldberg seconded. The motion carried, unanimously, and the meeting adjourned at 7:29 p.m.

Respectfully Submitted,

Meghan Rumph
Secretary